

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE

A regular meeting of the Public Works and Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on April 24, 2002.

MEMBERS PRESENT:

Legislator Joseph Caracappa - Chairman
Legislator Brian Foley - Vice-Chairman
Legislator David Bishop
Legislator Angie Carpenter
Legislator Andrew Crecca

ALSO IN ATTENDANCE:

Paul Sabatino II - Counsel to the Legislature
Charles Bartha - Commissioner of DPW
Bill Shannon - DPW Highway
Rich LaValle - DPW
John Ortiz - Budget Review Office
BJ McCartan - P.O.'s Office
Fredrice Wachsberger

MINUTES TAKEN BY:

Donna Barrett - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 11:45 P.M.*)

CHAIRMAN CARACAPPA:

All right. We're going to start the Public Works Committee Meeting with the salute to the flag led by Legislator Foley.

SALUTATION

CHAIRMAN CARACAPPA:

Good morning. We have one card so we'll go right to it, Clifford Hymowitz.

MR. HYMOWITZ:

My name is Cliff Hymowitz, I live in Selden, New York, and I'm a transportation advocate representing people who are transit dependant. I have three issues I wanted to bring up. Number one is that there was a public hearing held on accessible transportation, both paratransit and fixed routes. And I presented at that time a written testimony, but I wanted to share some figures that I got with you. When I sent out the notice about the meeting, I also included a -- I'll keep this for the record -- survey to go out to people on identifying why they couldn't attend. And just these numbers are interesting; 36% said they couldn't attend because they had to work; 28% they couldn't attend because there was no transportation available; 16% said they couldn't attend because they didn't know about it, and 10% said they couldn't attend because the locations was not accessible. What I also found interesting was that 1% said they live in Nassau, but work in Suffolk. The balance of it were combinations. And I think what this is saying is that the way we do public hearings needs to be looked at.

I already got feedback from the Bellport Hagerman Partnership, that they would like to have a public hearing in Patchogue. And I'd also like to invite everybody from this committee on June 25th from 10:00 to 12:00, your presence is requested at the Federation of Organizations. We're going to be having a public hearing with all the mental health organizations in Suffolk County. So I'll sent you out a written formal request, and if you can get back to me as soon as possible, so we could find out if that date's no good. Okay. Number two is I have distributed a letter that says, "we the undersigned organization individuals urge all members of the Long Island Delegation to give bipartisan support and expand upon the government's proposed budget in mass transportation." And I'd like to leave a copy of this for the committee to consider maybe doing a census (sic) resolution to, you know, like we're doing from other organizations in support of that budget. It's basically a bipartisan letter, and I think that at least it will show the Albany contingent that we're interested here in Suffolk County.

The last thing I want to talk about is that as far as accessibility, all of these buildings in the North County Complex have numbers. However, there's no direction on how to get the numbers. So if you give somebody a building number and they drive into -- into the location, they don't know where to find that number building. So there -- I think that in every entrance there should be a directory of building numbers and where they're located, or else there's no use

having building numbers. So I'd like to -- you know, I don't know I'd get feedback from you as far as the census (sic) resolution. And I also would like you to address this issue of the public hearings and maybe have discussions among yourselves on how we could do public hearings so they are more accessible to more people, because there was 310 people that responded that they would have liked to have been at that hearing. And I think that's a pretty significant number, that was on 33 petitions, 310 responses that they wanted to be there. Any questions?

CHAIRMAN CARACAPPA:
Legislator Foley.

LEG. FOLEY:

Thank you. Thank you, Cliff for bringing these things to our attention. The public hearings sprinkled throughout the County makes a lots of sense. Certainly to have one in Patchogue, which is one of the most accessible areas by transit, would be a good start, but certainly it also has to be held in other parts of the County as well. The federation meeting, I've attended those in the past, some years back, and they were very, very instructive. And finally, with the sign that needs to be placed here in the North County Complex. There used to be one years ago, it was taken down and was never replaced. So perhaps we can get the DPW sign shop to put up a new one. So thanks for bringing those things to our attention.

MR. HYMOWITZ:
Thanks a lot.

CHAIRMAN CARACAPPA:
Commissioner, why don't you come on up. Let's just ask you a quick question. Signage for the North Complex, what can we do about it? All right. So there's been the two questions, one asked formally and one shouted out from the chair. So why don't you answer mine first.

COMMISSIONER BARTHA:
We can certainly arrange to have a directory put up at the entrance of the complex.

CHAIRMAN CARACAPPA:
Great. We should put them as close to the bus shelters as possible.

COMMISSIONER BARTHA:
Yes.

CHAIRMAN CARACAPPA:
So that people can read them without having to stand in the rain as well.

COMMISSIONER BARTHA:
Okay.

CHAIRMAN CARACAPPA:
I'm sure you can handle it. Now Legislator Bishop's question was the schedules and maps of the routes within the shelters. I know you sent me a letter saying that it was moving forward, can you just bring us

up to speed as a committee on that.

COMMISSIONER BARTHA:

I'd have to check with Bob Shinnick. I believe we said it was going to be bid this spring.

LEG. BISHOP:

Spring has sprung.

COMMISSIONER BARTHA:

Spring has sprung, but it's still spring. I will check on that and get back to you.

CHAIRMAN CARACAPPA:

Okay. But the letter --

COMMISSIONER BARTHA:

We agree.

CHAIRMAN CARACAPPA:

We did agree, and in the letter they said they're moving forward as expeditiously as possible. Okay. We're going to go to the agenda. Well, do you have any other comments, Commissioner, aside from the resolutions before us that we'll do on a case by case basis. And if anyone has anything to discuss with the Commissioner relating to their district, go right ahead. Legislator Foley.

LEG. FOLEY:

Mr. Chairman, just to follow up on the issue of transit and bus. Also, it might be helpful if Mr. Shinnick can come to the next meeting along with, I would say, the Commissioner, to talk about some other items with buses. There's the issue of advertising that we had discussed for a long period of time of trying to market the buses and that you were going to undertake an RFP, I believe, for advertising and also for bus shelter maintenance, because there's an issue of bus shelter maintenance, where a number of townships are not taking care of maintaining the buses as they're -- the bus shelters as they're supposed to do on town and county roads pursuant to the New York State Town Law. So advertizing on buses and shelters, as well as maintenance of bus shelters. Those are things that have been on the docket of this committee for -- for well over a year. And if we can get some update on where the department is on those issues related to buses would be helpful.

CHAIRMAN CARACAPPA:

Just have Mr. Shinnick here at the next meeting, Charlie.

COMMISSIONER BARTHA:

Sure.

CHAIRMAN CARACAPPA:

Thanks. Legislator Bishop.

LEG. BISHOP:

Congratulations on the release of the Capital Budget, I know that's an exciting time of year for you. My question is on the Capital Budget

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and courts specifically. I think there's been a, if not a tension or at least a disagreement with the Legislature on the amount of court spending and where it's going to. The administration's position as reflected in the Capital Budget is that \$30 million is to be spent in Riverhead to accomplish the remodeling or the repairs, reconstructions of Griffing Avenue and to create an additional eight courtrooms; is that correct?

COMMISSIONER BARTHA:

That's correct?

LEG. BISHOP:

That will yield a total of ten courtrooms all together; is that further correct?

COMMISSIONER BARTHA:

No, there's more than that, more courtrooms than that. I think it's approximately 14 total that would be in Riverhead. We're constructing nine new courtrooms, which is a net increase of eight because with the refurbishing and bringing up to current standards of the existing court space, we will lose one courtroom.

LEG. BISHOP:

Net increase of eight. So it's eight, eight new -- well, you know.

COMMISSIONER BARTHA:

Eight.

LEG. BISHOP:

Because the report that was done by the Legislature's -- in corporation with your department said 16 total in the County, and that's the court's position, they need 16 total for the next few decades, and eight would go to Riverhead, and that's the initial \$30 million.

COMMISSIONER BARTHA:

It's approximately 35 million, but yes, that's --

LEG. BISHOP:

Thirty-five million. And that's not to cover both Riverhead and Central Islip, because I believe if I'm recalling correctly our Budget Review Office felt that the number 35 million initially was -- or 40 million perhaps was the number. I think 40 million was for both Riverhead and Central Islip. And now it's 35 just to Riverhead, and then that's when last year we slashed the request down to 30 I believe.

COMMISSIONER BARTHA:
Right. Well --

LEG. BISHOP:
So why are they wrong? Tell me. You know, make your case.

COMMISSIONER BARTHA:
Budget Review did not say that that project should be reduced last year.

LEG. BISHOP:
Really?

COMMISSIONER BARTHA:
They --

LEG. BISHOP:
Has the price gone up?

COMMISSIONER BARTHA:
I would say the price really hasn't gone up. Once we had a --

LEG. BISHOP:
In other words, your position is you always said 35 for eight in Riverhead, specifically down the line.

COMMISSIONER BARTHA:
Once we got to the point of estimating, you know, the actually construction cost, yes. A number of years ago when we first were doing that report, I believe, by the consultant, at that time there was a number, and I don't remember exactly what it was, but I think you are correct, that we were talking 40 million for both locations. But at that point, we didn't have any -- any goods numbers to estimate. A number of the years have passed in the mean time. It's a situation where as you develop plans, you know what you're really getting into.

LEG. BISHOP:
Okay. Fine. As long as we -- it's easier to make policy when you have a common set of facts. Okay. So that's -- we understand, and I understand. Thank you.

CHAIRMAN CARACAPPA:
Any other questions? I have a question, and I want it on the record actually. County Road 16, we're moving closer to a public hearing, have we settled on a date for that public hearing?

COMMISSIONER BARTHA:
I have to check with Bill Shannon.

MR. SHANNON:

At our last meeting when we had the mutual discussion about the various issues on the road, we had worked that the consultant had to perform. He's recently completed that work. I wanted to meet with you all again and then we have commitment to both Legislator Foley and Legislator Caracappa to meet with the CR 16 Committee one more time before we call that date. The meeting I'm going with the CR 16 Committee, I'm going to schedule immediately. The consultant's work is complete, but we did want to give them -- once we discussed this one more time with them, then we'll formalize it and have a date available from the administrative judge that we can -- was required to attend the public meeting. So I do not have a set date at this point.

CHAIRMAN CARACAPPA:

So the points of interest, I call them, that Legislator Foley and myself pointed out within the plan when we met have been addressed?

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MR. SHANNON:

That's correct. And I will be glad to visit with you and Mr. Foley to review those so that we're all on the same page before we bring the CR 16 Committee together.

CHAIRMAN CARACAPPA:

Very good. Thank you.

LEG. FOLEY:

Thanks.

TABLED RESOLUTIONS

IR 1029. Imposing moratorium on sewer connections located outside Suffolk County Sewer District No. 3 Southwest and establishing priority list. (POSTAL)

CHAIRMAN CARACAPPA:

Okay. 1029. Motion to table by myself.

LEG. FOLEY:

Second.

CHAIRMAN CARACAPPA:

Seconded by Legislator Foley. All in favor? Opposed? 1029 is
TABLED. (VOTE: 5-0-0-0)

IR 1202. Authorizing a public hearing to amend the Cross Bay & Lateral Ferry license to South Bay Water Taxi Incorporated. (TOWLE)

CHAIRMAN CARACAPPA:

Legislator Bishop.

LEG. BISHOP:

At the --

CHAIRMAN CARACAPPA:

Is there anybody here from Cross Bay? Why don't you come on up, sir.
Just for the record, state your name.

MR. RUDNER:

Mark Rudner, South Bay Water Taxi, R-u-d-n-e-r.

CHAIRMAN CARACAPPA:

Just pull the microphone closer to you and turn it on, the botton's
right on top.

MR. RUDNER:

Mark Rudner, R-u-d-n-e-r, Counsel for South Bay.

CHAIRMAN CARACAPPA:

Legislator Bishop, you have some questions.

LEG. BISHOP:

No. I was -- I don't know if you were there when we had the public
hearing at the Legislature. He's in this what he would describe as a

Catch-22, where he needs -- is it him or this is --

CHAIRMAN CARACAPPA:

No. This is it, this was was the one.

MR. RUDNER:

I was not at any prior hearing, nor were we informed about this
hearing today.

CHAIRMAN CARACAPPA:

There was a hearing. We tabled this bill in the last Public Works
Committee meeting, correct me if I'm wrong.

LEG. BISHOP:

Was anybody from --

LEG. CARPENTER:

Could I please, if you wouldn't mind, Mr. Chairman. There was someone
who came forward at the Legislature in Riverhead last week, I guess,
speaking on this resolution, but not from Cross Bay. They were from
another ferry company that was trying to get a license to operate, but
they didn't have permissions for their point of landing and, you know,
embarking. But this, I believe, is another issue.

CHAIRMAN CARACAPPA:

This is the water taxi.

LEG. CARPENTER:

This is the existing water taxi.

LEG. BISHOP:

Oh, this is the existing water taxi. The other one is the -- wants to be the competitor to the --

LEG. CARPENTER:

Exactly. Exactly. And Legislator Towle, who I don't believe his area services by the South Bay Water Taxi, I guess, in response to a newspaper article that was written last summer put this resolution forward. I'm the Legislator that represents the communities that are serviced by this water taxi --

CHAIRMAN CARACAPPA:

As well as Legislator Foley.

LEG. CARPENTER:

I don't know if they go --

CHAIRMAN CARACAPPA:

Yes, they do. They go to Davis Park.

LEG. CARPENTER:

Davis Park, okay. And my office, apart from an initial complaint, really has not had any kinds of outcry from the public about the service to warrant considering, you know, altering their license in any way. Legislator Foley, what about your office?

LEG. FOLEY:

There were -- there were some. I was -- I was reading the resolution while you were speaking, Legislator Carpenter, but there were some complaints again stemming from the article that was in the news late last summer. Mr. Rudner is here to -- to speak about those allegations and that, you know, put it on the record, that's fine.

CHAIRMAN CARACAPPA:

I have a question for you.

LEG. FOLEY:

Obviously, you are not here in support of the bill.

MR. RUDNER:

I'm here merely because South Bay Water Taxi's name appears on your agenda today. If I could be heard regarding what was just brought up, I would appreciate it. If I can be afforded that time. As Ms. Carpenter has just brought up to the Legislature, the complaints stem from an article written by a member of the -- an editor of the Fire Island Newspaper that had certain complaints regarding the service or services of the South Bay Water Taxi, who's my client. There is a very great deal of history, which the Legislature should be aware of, regarding the relationship between the editor of that

newspaper and the owner of the company which I represent. That editor did try to purchase my client's company at one time -- excuse me -- and the offer was rejected. There was some retaliation taken, there was some fighting going on, there was a relationship between the editor of the newspaper's father, because he operated a restaurant over at Fire Island and my client. As far as I know, there have been no complaints other than those lodged within that article, which I put in the Legislature are completely and utterly biased in favor of this person who has antagonism towards my client. We would, of course, be happy to hear any public complaints that were lodged against our company; however, to this day we have not been -- none have been brought to our attention. So while we are here today to discuss the hearing regarding the amendment of the license granted to my client, we don't really understand why would there -- why there would be any reason to have that hearing in light of who has written the article and the fact that that's the only complaint that exists against the company at this time.

CHAIRMAN CARACAPPA:

Legislator Bishop has a question.

LEG. BISHOP:

Mr. Rudner, I had for several years rented a place in Corneille, which is Ocean Beach. A hundred dollars to go across the bay, is that -- that was what was cited in the article? That was what was quoted to me when I lived there. So all I can tell you is I thought it was outrageous. I didn't know it was illegal until we got here. It's common, and to deny it is -- well, at least it was my experience personally. So what I -- but from what you're saying, it wouldn't seem that you would oppose this bill because this bill simply sets a hearing. Then the other issue I have, a broader issue, is taxis on a bay. Wouldn't the public be served by competition? I don't understand how it -- what our role is -- Counsel will say we are a

mini Public Service Commission, de facto Public Service Commission. If I'm on a Public Service Commission, I -- my primary goal is to see that the public receives service at the best price, which means I don't want to flood the market with too many companies, at the same time, I want to ensure that there's reasonable competition. So what I don't understand is the process seems to be very hostile towards additional companies operating, in that you have to have landing sites first. You know, why can't they be granted a license, go get their landing sites, and compete? Wouldn't the public be better served by that? So I'm questioning our requirements, I'm questioning our role. I don't think -- you know, when you get elected to this position, you probably give a lot of thought until you get here about ferry service responsibilities and water taxi responsibilities. I didn't even know we had water taxi responsibilities until recently. I knew we had ferry responsibilities. I'm trying to learn more so I can do a better job.

MR. SABATINO:

I'll try to be helpful. The -- it's an unusual situation. State law, not County law, state law grants this unique opportunity to the County Legislature to regulate ferry service that goes across a body of water. So going across the Great South Bay or if there was travel to Connecticut, subject to another level of federal review, you have to grant the licenses. The statement you made before is correct. You are a basically a mini Public Service Commission. You have to look at things like reliability of service, adequacy of services, which deals with your issue of competition, the safety which goes to the issues of certifications of boats, financial records, affordability, these are the kinds of things that you factor into your deliberations and considerations.

In 1982, because there was some difficulty with the process. The process had not been codified or formalized, we were just reacting or relying on state statutes. We sat down representatives from the ferry company community, and with their input, we developed a local law just to try to codify or formalize the process to make it a little bit more rational along the lines of what you just described. That seemed to calm the waters for a certain period of time, and then periodically we had these outbursts of problems. I know a few summers ago in Legislator Carpenter's district, there was a major problem with villages not renewing contracts with ferry company operators, we had attorneys meet with us in the middle of July to try to reconcile and work that out, we developed a new -- some new language for resolutions to deal with that issue, we had a big fight with North Ferry in terms of terms and conditions to try to regulate them. So it's not the question of hostility, there's a process, it's just an ebb flow to the process. But the things you have to look at are the things I described. And sometimes you have to react to particular circumstances, which may be the case here.

LEG. BISHOP:

Let's -- one of the things that I said at the full Legislature is that I thought that in this committee we could take the time at that some point soon, if not this meeting, to go other that process, because I want to understand if I have investors, and I want to establish the Bishop Ferry Taxi Service Company, water taxi company, what is it that

I have to do, and what are the steps, and are they logical in order to get -- you know to get on -- to go into business?

MR. SABATINO:

Well, you have to find a point of -- at least one point of origin and at least one point of destination.

LEG. BISHOP:

I don't -- one of the things I don't understand about it. It's a taxi. So it's supposed to go to multiple locations.

CHAIRMAN CARACAPPA:
You still need a landing site.

MR. SABATINO:
I said at least one. I said at least one. I said at least one. I mean, it could be -- I'm not arguing against 20, but that issue that came up in the last hearing with Mr. Mensch is that he proposed 40 or 43 points of destination, and I think a dozen points of origin. The problem was he could not demonstrate to anyone's satisfaction that he had the rights for the most part to get to the points of destination.

LEG. BISHOP:
And they said they weren't going to give him the rights until he had a license.

MR. SABATINO:
So what I suggested at that hearing last week was a compromise since 40 -- we've never had somebody come forward with 43 points of destination. What I suggested was maybe he's right, you know, maybe I'm wrong, maybe my 20 years of experience is wrong, but --

LEG. BISHOP:
Never.

MR. SABATINO:
But if he's right -- if he's right that some of these property owners are going to come forward after we grant the license, what I suggested was let's pick some number less than 43 as proposed points of destination, grant the license, and the suggestion was to make it a more limited license for, I think, just two years or one year or 18 months, and see if, in fact, all of a sudden these land owners come forward and provide the consent, but that the authorization of the license would be subject to getting those approvals, because you can't -- you can't go on somebody's property with public passengers and put the County at risk, if something goes wrong, because there was no authority to be on that property. So from our standpoint, we're concerned about liability. We don't want to have that sunken boat or that fight that ensues because the land owner comes out and starts shooting the passengers to get them off his property. So from our perspective, we're protecting ourselves.

CHAIRMAN CARACAPPA:
Legislator Carpenter.

LEG. CARPENTER:
I listened to the gentleman that came down, and, you know, looking at his -- the resolution listing all of the sites, it seemed absolutely totally overambitious. And then further listening to his testimony when he spoke about the fact that he was going to be asking -- when

they asked about the cash controls, his response was that he was going to have an employee stationed at the site to take the names and addresses of people getting on the boat. Now, you yourself just stated that you, you know, were over at Fire Island, used the ferry or the water taxi. Can you just imagine someone who's coming over to Fire Island during the summer, a get away, wanting to be less than obvious in their little private get away, and now have someone say I need your name and address for the records, it just doesn't make sense. And he stood up there and said that his -- he was projecting that his rates were going to be less than the rates charges, yet he was proposing to have all of these extra employees. With 40 sites that would be 40 employees at each of these sites just taking names and addresses, it just didn't seem logical. And I feel that we have established a system for how one goes about obtaining a license to operate that this County, and Counsel said it at the Legislature, we offer assistance far and beyond anyone else does in helping someone get started in business. We make the services of our Budget Review Office available, we make the services of Legislative Counsel available, the Clerk of the Legislature. So we've done everything we can to empower them and help them get into business. And for us now at this juncture to change the rules that we've, you know, told everyone else that they have to follow when they establish a ferry company, I think we would be letting yourselves in for, you know, some potential litigation on the part of those who've had to obey the rules to this date. And I know I heard it anecdotally, and I don't have anything specific, but there was a ferry company out east who wanted to expand their services, adding four sites with a water taxi, and had approvals for three of the four sites, yet because they didn't have all of the approvals, were not able to come forward and get the license. So again, looking at that list of 40 sites, which include the Fire Island National Seashore, I'm telling you from my experience in dealing with the bureaucrats over there, there's no way that they're going to grant those kinds of permissions. So I think Counsel's suggestion that they be a little bit less ambitious and narrow the number of sites they're looking for. But to suggest that we're going to allow them to do it before they have those permissions, I think, just would be very inappropriate.

CHAIRMAN CARACAPPA:

Well, seeing that National Seashore just banned personal water crafts, I doubt they're going to let water taxis into -- into the area.
Legislator Foley.

LEG. FOLEY:

Thank you Mister -- Mr. Chairman. Mr. Duffy is here, and what I'd like to do is to get to the fundamentals of the issue as outlined in the article, and then we can hear from Mr. Rudner afterwards. Mr. Duffy -- first, Mr. Duffy, you're going to need to have that microphone. Thanks. When you review the sponsor's resolution and whereas clauses, charge -- number one, charging fares in excess of the limits authorized by Resolution 892 of 99, and there's also a question

concerning the adequacy of the cash controls for South Bay Water Taxi, and then reviewing the backup, which is the article that Mr. Rudner takes exception to, which mentions South Bay's violations, then mentions, you, Mr. Duffy by name. We had spoken back in late summer, early fall and the request was made as Chair of Public Works at that time for you to investigate the matter and to see if, in fact, any such kinds of violations could be quantified, if you will, and whether or not there was -- there was real issues with cash -- cash control. Now, this public hearing that's being held today, what can you tell the committee about your investigations at that time and any other new information you may have ascertained since?

MR. DUFFY:

Okay. Well, there has always been an issue of cash controls with South Bay Water Taxi. When we issued our original report and we looked at the cash control system that was in place, we did not feel it was adequate. At that time we had suggested that their license be granted conditioned upon them installing a cash control system.

LEG. FOLEY:

The license was granted when?

MR. DUFFY:

The license was granted, I believe, I'm going from memory, I think it was 1989.

LEG. FOLEY:

From '89 to 2002, have the cash controls been improved?

MR. DUFFY:

As far as I know, no. I had spoken to --

LEG. FOLEY:

Has it been brought to your -- it has not been brought to your attention whether or not they changed the system.

MR. DUFFY:

I had a conversation with Mr. Sanders approximately two years ago. He had called me when gasoline prices were expected to rise very dramatically, and said he was thinking about coming in to apply for a rate increase. At that point I asked him, I said, well, I remembered when we reviewed your water taxi, when the initial license was granted, we had problems with your cash controls, has anything been done since then. And he indicated to me, no, nothing had been done.

LEG. FOLEY:

Okay. There still is an outstanding issue of cash controls, as far as violating the schedule that was --

MR. DUFFY:

As far as the other issue, I -- when Public Works had asked us to contact South Bay Water Taxi, I contacted Mr. Sanders, and we had a conversation with his explanation as to why there was some discrepancy as to what the charge was. What he indicated to me at that time was that it depended upon the route that the water taxi was required to take, that going from one community to another, it was not going in a

straight line, they had to go out and depending upon tide conditions and time of the year, that that distance may vary. I asked him to send me something in writing, which he did when this resolution had been submitted. I submitted that to the Clerk of the Legislature to include as backup.

LEG. FOLEY:

It is part of the backup?

MR. DUFFY:

I believe it is.

LEG. FOLEY:

Okay. And how does it read? Dated October 4, 2001?

MR. DUFFY:

Yeah.

LEG. FOLEY:

Does it answer your questions?

MR. DUFFY:

Well, as I looked at it, you know, I was submitting the information he was supplying to the Legislature. Whether or not it answers all questions, I'm -- I'm not prepared to say at this moment. I think the bigger issue is the cash controls. And the cash controls are something that still needs to be addressed.

LEG. FOLEY:

Now to be -- to be fair to this water taxi, are there other either ferries or water taxis that also have some outstanding cash control issues that have not been addressed over a period of years?

MR. DUFFY:

Well, over the years what has happened is that -- I saw George Hathaway sitting in the audience -- the Legislature as part of the conditions of granting Fire Island Ferry the license after we had that problem with Frank Mina, we required that they install a new cash control system, which they did. I know they spent approximately \$80,000 in doing that cash control system, and I also know that Sayville Ferry, that I believe -- my years may not be perfectly accurate, but I think in 1994 when Bill Leonard had done the review of their rates at that time, those rates were granted subject to them installing cash controls. When I went back two years later, those cash controls had not been installed yet, because Sayville had come in for a rate increase. They then set about and they installed a new cash control system. Going back before my time, and Jim Spero can correct me if I'm wrong, I believe that we had required that cash controls be set up, and they instituted the duplex systems for both North and South ferry on Shelter Island. Davis Park Ferry, I have never worked on, but I know they had appeared before the Legislature when we had raised the question that they had increased their costs of living without coming before the -- filing with the Clerk of the Legislature. I do

not know what Davis Park's cash controls are, but I know at that time that the Legislature had sanctioned the fare that they had raised the level to without our reviewing it.

LEG. FOLEY:

Mr. Rudner, would you like to reply, please. If you look at the backup, being the attorney that you are, I know you had a copy of the bill in the backup, and the article from Fire Island News gives a point by point reportage, if you will, on what they consider a violation. So if you could give us, you know, your -- not only your view, but -- well, your view and also whether you have anything in writing as to why you believe it's -- these are not violations.

MR. RUDNER:

Thank you, Mr. Foley. At this -- at this point, my understanding that -- is that I was coming down to address Legislature regarding whether or not a public hearing was going to take place at all. So I am not here today with facts and figures to dispute any of the points that were made in the article published in the newspaper. However, regarding the -- the one document that Mr. Duffy refers to, which -- which goes to measuring routes and, therefore, determining prices on routes, I can tell you that I did have a hand in helping my client prepare that document, in that I did, in fact, accompany my client on a couple of his boats on a couple of the runs to determine what different distances it is necessary to run when tides change and, in fact, when a smaller boat is used as opposed to a larger boat, a larger boat, of course, requiring more water to run. I believe one of the routes that was -- was contested in the article written in the paper was that route between Cherry Grove and the Fire Island Pines. That route, if measured directly on land, while something -- my recollection only, please -- something like a mile. It could be necessitated to run half a mile off the beach at both points, both at the Grove and the Pines, depending on the tide and depending on the size of the boat used at that location. So I believe if the Legislatures have an opportunity to view that document, they'll see that in defense of my client's position, it's quite clear that there are difference in the length of the run, of course, changing the rate that's required.

Regarding the cash control issue, I have to regretfully inform the Legislature that I am not prepared today to discuss that issue. Again, my understanding was that this would be an issue discussed at the hearing, which I, of course, am here to -- to discuss, which is, of course, the possibility of the hearing, which we don't believe based upon the complaints that have been made, there should be any hearing. So if the hearing is set down by the members of the Legislature, then, of course at that time, I will be present with my client and any accountants necessary to discuss the cash controls that are being referred to here today.

LEG. FOLEY:

Robins Rest.

MR. RUDNER:

Robins Rest, Mr. Foley, is -- is the town that I referred to earlier where the gentleman who is the editor of that newspaper, the restaurant being operated there was that gentleman's father. So when I refer back to the fact that that gentleman, Mr. Beqaj had attempted to purchase my client, Mr. Sander's water taxi company and then was not able to come up with the funds, let's just say the whole thing was

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downhill from there. There was animosity between Mr. Beqaj, the editor of the newspaper and Mr. Beqaj, the owner of the restaurant.

LEG. FOLEY:

Can you discontinue a run to that particular beach community, I think that's --

MR. RUDNER:

I'm sorry, could you restate that?

LEG. FOLEY:

Can you -- as the newspaper mentions that the -- I call it run to that beach was eliminated according to the -- to the newspaper article. And if it was eliminated, is it still eliminated? It's back on schedule? Despite the personal animosities, I think part and parcel, certainly you as an attorney understands the contractual obligations that the parties have here to fulfil their requirements under the contract. And Robins Rest was part of the contract by having access by water taxi, according to the newspaper, that was arbitrarily, summarily eliminated from -- from that water taxi's destination points.

MR. RUDNER:

Mr. Foley, there was, in fact, a time when the water taxi was not running into that dock. And I can tell, because I saw it myself, that one of the water taxis that was owned by Mr. Beqaj, who ran the restaurant, son was regularly left cross wise along the dock where the water taxis was supposed to pull in, thereby, leaving no means of ingress or egress for Mr. Sander's water taxis to pull up. Now, when we discussed this fact with Mr. Beqaj, he said he had no other place to put his water taxi. That water taxi -- I'm using that term loosely, because as it was built for a water taxi, it was never licensed as a water taxi, nor did he have ever have -- was he ever granted any license from the Legislature to operate a water taxi company.

LEG. FOLEY:

Is that beach -- is that beach on the schedule for this coming season?

MR. RUDNER:

That beach is absolutely on the schedule for this coming season.

LEG. FOLEY:

Okay. Now, Mr. Chairman, if I may, if in the future you have difficulties of some other boat being in the way -- I mean, who owns the dock? Who could you have appealed to try and have the person move it so that if that was the reason why there was a temporary discontinuance of taxi services there, there must be somebody who owns that particular dockage that you could appeal to have the person remove the boat.

MR. RUDNER:

Mr. Foley, in all honesty, the person that owned that dock was the money behind the gentleman trying to buy the water taxi company from Mr. Sanders, my client.

LEG. FOLEY:

What I would suggest in the future -- whether we have a hearing or not, but what I would suggest, if these difficulties arise again, and you think you're about to or an operator would want to discontinue or make any changes, they have to make the Budget Review Office, this Legislature aware of -- number one, of what your intentions are before -- not going forward without first informing. And I think, and I'd like to hear from Counsel on this, whether or not we would have to, in essence, amend -- have a hearing on amending the contract, so to speak. But we need to be made aware -- if there are those difficulties, we need to be made aware also as to when issuing the contract, issuing the permit, if you will, of these kinds of difficulties. And if there are, then we can step into try and help also. But, you know, there's a real concern about making these arbitrary decisions of discontinuing a service to a particular beach.

Now, if there are reasons for that, we need to be made aware of that prior to it happening. Now, I know that when you get to the other side of the bay, people have a whole different mindset among those who are there and also with some operators. But the fact remains that here back on the mainland that we need to be made aware if there are problems with where you're going with your docking. We need to be made aware of that prior to any decisions made by any contractor, be it a ferry service or a water taxi of making a decision to move or to eliminate that, whether it's for a day, whether it's for a week, whether it's for a month. And I would think that -- not think, I would know that that kind of protocol has to be adhered to prior to any changes made, that you need to make us aware of it. Now, Mr. Duffy, through the Chair, on the point of Robins Rest, was that discussed, and what -- what did you say to the operator?

MR. DUFFY:

Well, I never had a -- my recollection is I never had a conversation discussing Robins Rest and the termination or alleged termination of service. What I do recall, and I believe Legislative Counsel, because

I was in his office at the time, both of us had conversations with Saddamh Beqaj, I believe his name was, who said he was the owner of the restaurant. And what both of us had said to him is that if you wish to make a complaint, that you would have to put it in writing and send it to us. I have never seen any complaints about South Bay Water Taxi and none were every forwarded to us. And the only one I recall is this one telephone conversation with Mr. Beqaj. Is that your recollection, Paul?

MR. SABATINO:

That's correct. There was a lot of background noise from the dishes in the restaurant.

MR. DUFFY:

But that basically is our policy, that if -- we would not investigate unless we receive a written request as opposed to a phone call.

LEG. FOLEY:

Yeah, but if you -- just through the Chair, but if you do -- if it's brought to your attention that -- that whoever it may be that had -- that either ferry service or a water taxi services has discontinued

the service to a particular beach, whether that's in writing or not, if you hear of it -- I mean, that has to be investigated immediately.

MR. DUFFY:

Okay. What we had done when we found out there was a problem with Davis Park that they had altered their rates without going to the Clerk --

LEG. FOLEY:

That's a different situation. We're talking about Robins Rest, we're talking about the present situation, that if it's brought to the Budget Review Office attention, that there is a discontinuance, whether it's been said verbally, if not written, even if it's done verbally, then Budget Review has to follow up and make the Legislators in the area aware of it, and also directly contact the owners to see what the situations is.

MR. DUFFY:

Those are your instructions, we will --

LEG. FOLEY:

Well, it's not my instructions, I would think that should just be the way it should work.

CHAIRMAN CARACAPPA:

All right. Go ahead, Legislator Bishop.

LEG. BISHOP:

In terms of our role as a mini Public Service Commission, do we have a

economist that looks at the supply and demand for water taxis or ferries or anything that we deem to regulate? How do we set these rates? We just arbitrarily decide what's fair and what's not?

MR. DUFFY:

What we do is that our licenses are non exclusive. There can be as many licenses as the Legislature is willing to issue. It's up to the operators to determine whether or not they feel there is an ability for them to make a profit. What happens is that they will come in -- well, to step back, the Legislature got involved in regulating the ferries when the function was turned over by the County Courts. My understanding is that at that time they wrote Chapter 287 to set a reasonable guide describing why we're providing the rates. And our rates basically are based upon they're receiving a fare return on what their investment is. And what the Budget Review Office's function is that we will go and review the financial -- audited financial statements of the company to determine whether or not they're operating profitably. If they are then requesting a rate increase, and I'm sure you've been at many of them with North Ferry and South Ferry, we will write a report indicating whether or not we agree with their requested rates.

LEG. BISHOP:

Looking at the company's financial situation.

MR. DUFFY:

Financial situation, yes.

LEG. BISHOP:

But we never look at the amount of customers that are out there and whether there are enough taxis servicing the customers or -- I mean, potentially, I guess, we could let in too many companies and then there would be a diminishment in service and we would drive --

MR. DUFFY:

But wouldn't the market then control that if -- like an operator, someone coming in --

LEG. BISHOP:

Well, I guess we're against all regulations.

MR. DUFFY:

-- coming in saying that he wants to set up a new ferry. He makes a determination as to whether or not -- I believe the case Legislator Carpenter was referring to was to Cliff Clark. He came up with the idea of supposedly running from Greenport to Sag Harbor. No business had ever done that before. He had called me several times, and I believe he spoke with Jim and Fred about setting up his new business. What he did is that he then looked at how many people he thought he might be able to carry, he then contacted the owners of the land where he wanted to land, and determined whether or not -- my understanding

is that except for Sag Harbor, there was a great enthusiasm for doing this. He would not know whether or not he would make a profit on this until he actually began operations, and even in the beginning, he may be operating at a lose because people would have to discover that there's this new service going from Greenport to Sag Harbor. In looking at the Fire Island ferries and the water taxis that existed --

LEG. BISHOP:

So Kevin, if I want to go from, you know, the Pines to Fair Harbor, and I see in the grid it's \$15, that's something that we establish by looking at the financial records of the company that charging it?

MR. DUFFY:

We would look at the -- you're doing a South Bay Water Taxi?

LEG. BISHOP:

Right.

MR. DUFFY:

What we had said when we did our South Bay Water taxi report is that we cannot express an opinion as to their financial -- we said their rates were competitive because they were charged a similar to what other companies in the area were servicing, but since we could not verify their cash controls, we could not indicated whether or not we thought they were generating enough income to cover the expenses that they showed us.

LEG. BISHOP:

Who were the other companies? I though there were no other water taxis. At least, you know --

MR. DUFFY:

Well, at the time we did South Bay Water Taxi, there were three.

LEG. BISHOP:

Now there are none, right?

MR. DUFFY:

Well, there's one. There was Maker Water Taxi, which was taken over by South Bay Water Taxi, and then there was Aqualine Water Taxi, which was also taken over South Bay Water Taxi. But what had happened at that time going back is that in 1988, Maker Water Taxi came in for a license, because the Village of Ocean Beach wanted water taxis to be licensed, they were not going to let them use their landing facilities. There was a debate in the Legislature at that time as to whether or not the Legislature was required or should license water taxis, because our licensing provisions dealt with ferries. It was the decision the Legislature at that time that we felt -- that the Legislature felt that some regulation was required and that we felt that we will be providing a service if we regulated water taxis. Bob {Royce}, who at that time represented Fire Island Ferry had come in --

or threatened a lawsuit that the Legislature had no authority to license water taxis. And my recollection of what happened was his letter threatening the suit arrived the day after the Legislature granted Maker Water Taxi a license.

LEG. BISHOP:

Okay. My opinion, Mr. Chairman, is if we are required to regulate water taxis, we should do it in a manner that protects the public. And I assume from this, from what I'm hearing is that we've never made an effort to reconcile rates with investment, which, you know, on its face suggests that we've neglected --

MR. DUFFY:

We do. What we do is when they come in asking for a rate request, we examine --

LEG. BISHOP:

I thought you said they don't have --

LEG. CARPENTER:

We've downgraded their application for how much they can get an increase for --

LEG. BISHOP:

Who's they?

MR. DUFFY:

Many.

LEG. BISHOP:

Which company are you talking about?

MR. DUFFY:

Name any one.

LEG. BISHOP:

I'm not talking about ferries, I'm talking about water taxis.

MR. DUFFY:

Water Taxis, well, the only time -- the only time we've had a water --

MR. SABATINO:

Can I just interject? It's ferry service that we're regulating. The reason we regulate the water taxis is because there's a court case that says if you -- if you carry people for hire, you get paid to take people across a body of water, you must be regulated. So whether it's called a water taxi or a ferry boat, it's ferry service, it's transporting people that we regulate.

LEG. BISHOP:

All right. But we treat it differently in the way we handle it, correct?

MR. SABATINO:

No.

MR. DUFFY:

Not -- what I was saying --

LEG. BISHOP:

Well, then what's the -- what's the investment that you're -- that's where I started. I said how do we know that \$11 is --

MR. DUFFY:

Well, what I'm saying is that the only time that we looked at South Bay Water Taxi's rates, we were unable to express an opinion because they did not have adequate cash controls to determine whether or not their expenses were being sufficiently covered by their cash.

LEG. BISHOP:

Well, I thought that's what I'm indicating, that we didn't -- we never reconciled. To me you're saying you never expressed an opinion, so therefore they're charging a rate that they've never justified.

MR. DUFFY:

But what we said at the time we issued that report is that the rate that they were asking for was competitive to what was being charged in the area.

LEG. BISHOP:

But there are no other companies in the area.

MR. DUFFY:

At the time they applied, there were two other companies.

MR. RUDNER:

Mr. Bishop, if I may. At the time that these were set, there was competition, there were two other companies. I think the appropriate question might be whether or not there's been any rate changes since that time when these rates were set.

LEG. BISHOP:

You never opened up your -- you never -- excuse me with the pronouns -- the Budget Review Office never expressed an opinion on the rate

structure because the company was unable to provide the documentation; is that correct?

MR. DUFFY:

Right. Correct. And what we said in our report was that we suggested

the Legislature make their license conditional upon them installing cash controls.

LEG. BISHOP:

Okay. Now, if the New York State Public Service Commission regulated utilities in that manner, we would be sending out Sense Resolutions every ten minutes saying that it's outrageous. So I think we should do a better job in our own house of addressing this.

CHAIRMAN CARACAPPA:

Correct me if I'm wrong, if it was a utility, they'd have adequate cash control systems for the Public Service Commission to review if they're violating the customer by overcharging them. You know, we can only monitor these companies by seeing what they're making, and we don't know what they're making unless they have the cash control systems in place. So it kind of put us in a Catch-22. And we get to this point, where we have only now one company, no cash control systems, and now we have to decide whether -- whether it's good for the consumer or not. So what do we do? We've force them to put in cash control systems, I think that's the first and foremost thing we need to do.

LEG. BISHOP:

Then we -- then when we have a cash control system there should be an effort undertaken to -- for the company to justify its rate schedule so that the public knows that they're protected.

CHAIRMAN CARACAPPA:

I would absolutely agree with that.

LEG. BISHOP:

And I also think that we should have a system that encourages some level of competition.

CHAIRMAN CARACAPPA:

Why aren't the cash control systems in place?

MR. RUDNER:

Again, Legislator Caracappa, you're asking me a question that I've indicated at an earlier time today that I am not prepared to discuss today. Again, I came here merely to discuss whether or not there should be a hearing to discuss the amendment of South Bay's ferry license. I have not had the benefit of discussing with either the accountant or my client cash control, as I did not believe that was going to be an issue. The only reason I'm able to address the other issues I've been able -- I've been addressing today is because I have been personally involved with them, cash controls, I've had no involvement with.

CHAIRMAN CARACAPPA:

Paul, south -- South Bay Water Taxis, their license isn't up to 2004?

MR. SABATINO:

2004. The last extension was '99 for five years. I don't know the exact month, but we could check that out maybe from the Clerk's Office.

LEG. BISHOP:

This particular resolution has to be tabled because the date named on it is passed, correct?

MR. SABATINO:

No. We -- we can change that. That -- normally we set the hearing date, we put a blank in. There was anticipation that that was going to be adopted, we just put in the next date, but we'll -- it's going to be May 21st.

LEG. BISHOP:

Well, May 21st, today is? That's a month, approximately.

MR. SABATINO:

Because you can't vote -- you can't vote until April 30th. So we'll be setting it for the 21st.

LEG. BISHOP:

I mean, is that enough time to -- to do it properly?

MR. SABATINO:

Well, the key is going to be that the hearing -- the hearing is going to afford an opportunity for the ferry company to come in and respond to these questions and concerns.

LEG. BISHOP:

And I guess they would have to be public --

MR. SABATINO:

They have enough time. To me -- today's the 23rd, you're talking a month -- 24th rather.

LEG. BISHOP:

Is that all right with you?

MR. RUDNER:

If I can just point out that that is a month which proceeds the busiest time of the year for my client. This is, of course, the time when -- when we're -- when he's getting his boats together and getting his crew together. So I would ask for --

LEG. BISHOP:

You want to push it out?

MR. RUDNER:

I'd like to point out something to the Legislators, if I may, that from listening to Mr. Duffy's comments regarding the other companies -- the other ferry companies regarding their cash controls, I did not -- I didn't hear Mr. Duffy say anything regarding public hearings regarding those cash controls, just that they were given a certain amount of time. And that those cash controls were put in place, I

believe Mr. Duffy said, a couple of years after the time when they were supposed to be put in. The purpose as, I understand this discuss today -- excuse me -- was that the legislator -- the Legislature received an article and reacted to the article and allegations made therein. The allegations have only been made by that article. The main allegations, which were the -- which were the cost of -- of transportation of the fares was, I believe, adequately disputed by my client in his response to the Legislature. If the only issue is cash controls, then I don't understand why the Legislature would not afford my client a concern amount of time to put those in proper cash controls in place.

CHAIRMAN CARACAPPA:

All right. Kevin, we passed that extension in '99 contingent upon prior controls being put in place?

MR. DUFFY:

My understanding is no, the license did not -- was not conditioned upon them putting cash controls --

MR. SABATINO:

What happened in '99 was Budget Review made a recommendation, but the Legislature did not incorporate that recommendation. It was recommendation that they made, but it was not made part of the resolution.

LEG. BISHOP:

Okay.

MR. RUDNER:

So if -- first of all, I'm not stating to the Legislature that cash controls are not in place, because again, I do not know. But at the very at least I would request of the Legislature a period of time, no less than two months in which we can demonstrate at some -- by some means others than a public hearing that the cash controls are either now or will then be in place.

CHAIRMAN CARACAPPA:

Legislator Carpenter.

LEG. CARPENTER:

I would like to suggest that before we move forward with passing the resolution to have the public hearing that we give the operator the opportunity to come back to this committee, and I'm suggesting at the next committee, which would be May 15th, to respond --

LEG. BISHOP:

Why don't we also have the writer of the article?

CHAIRMAN CARACAPPA:

That's definitely necessary, and will not happen.

MR. RUDNER:

Thank you, Legislator Caracappa. I appreciate that.

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LEG. CARPENTER:

Our meetings are public. If you want to contact that person, go right ahead.

CHAIRMAN CARACAPPA:

I would love to have the reporter write a story tomorrow saying that we're having hearing on this, and the people that apparently said there was price gouging can come down and --

LEG. BISHOP:

That's what I meant, the people in the article, not the reporter.

LEG. CARPENTER:

So certainly our -- our meetings are public enough. And we can direct the public information officer here at the Legislature to get that information out that this is going to be a subject to be discussed. But rather than do it formally through a hearing process, I think we should give them the opportunity to come to the next meeting with the information on the cash controls and any of the other issues that were raised.

CHAIRMAN CARACAPPA:

All right. Good compromise. What we'll do is, I'm going to make a motion for table this bill for one cycle of this committee. This gives your client time to come before this committee and speak and also gives him the added week to get before the full Legislature when we will approve this hearing.

LEG. BISHOP:

When is our next meeting?

MR. SABATINO:

In the committee it would be May 15th.

CHAIRMAN CARACAPPA:

So it doesn't give you the amount of time you asked for, but it does give you more time than what we would be giving now. So it's a good compromise. So at this -- we're going to table this for one cycle. So I'm making the motion to table 1202, seconded by Legislator Carpenter. All in favor? Opposed? It's TABLED for one cycle.
(VOTE: 5-0-0-0)

So just bring that back to our client.

MR. RUDNER:

Thank you for the opportunity to be heard.

IR 1248 Approving extension of license for Sayville Ferry Service, Inc. for Cross Bay Service between Sayville, new York and the Fire Island communities of Fire Island Pines, Cherry Grove and Water Island. (PRESIDING OFFICER)

CHAIRMAN CARACAPPA:
Okay. More ferries, 1248.

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LEG. CARPENTER:
Motion.

LEG. FOLEY:
Second the motion.

CHAIRMAN CARACAPPA:
There's a motion by Legislator Carpenter, seconded by Legislator Foley. Kevin. Mr. Duffy, why don't you give us your findings on this.

MR. DUFFY:
We -- you're talking about Sayville Ferry. When a license is extended and rates are not affected, the Budget Review Office does not do a review. We only do a review when either rates are being established or they're being altered.

CHAIRMAN CARACAPPA:
Their rates are not being changed whatsoever, they're just extensions. Okay. There's a motion and a second. All in favor? Opposed?

LEG. BISHOP:
I'll abstain.

CHAIRMAN CARACAPPA:
Abstention, Legislator Bishop.
APPROVED (VOTE: 4-0-1-0) (ABSTENTION; LEG. BISHOP)

IR 1323. Appropriating construction funds for intersection improvements Speonk-Riverhead Road CR 51. (GULDI)

CHAIRMAN CARACAPPA:
Motion by Legislator Foley, seconded by Legislator Carpenter. On the motion. Commissioner or Billy, is this the now unfortunately infamous intersection where a young college student was tragically killed?

COMMISSIONER BARTHA:
Right. There had been a fatal accident at this location in February. From the police report, it appears the person went through a stop sign into County Road 51.

CHAIRMAN CARACAPPA:

My question is with the \$250,000 being appropriated here for improvements, does that include the traffic light that was put forward in another resolution by Legislator Fisher?

COMMISSIONER BARTHA:

I -- neither of these were initiated by us, but we do support the traffic signal at this location. And \$100,000 is sufficient to do a traffic signal and to provide street lighting. We think street lighting is warranted in this immediate vicinity based on an analysis of the accident.

LEG. FOLEY:

We tabled this at the last meeting. I wish we had known this prior to the this past Monday, because we can't amend it for next Tuesday.

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We'd have to get a CN then for Tuesday.

CHAIRMAN CARACAPPA:

What Charlie is saying is the original bill that is before Education -- why it's in Education, I have into idea.

LEG. CRECCA:

Why is it in Education, Mr. Chairman?

CHAIRMAN CARACAPPA:

Well, I've been asking that question of the county -- well, there's a slip of the tongue -- from the Presiding Officer, and he didn't know why.

LEG. CRECCA:

Counsel, do you know why it was assigned to Education and Youth, that traffic light?

MR. SABATINO:

Because the request that came was based on an incident that took place at the community college, and it was to put the traffic light installation in to address the problem at the community college. That was the basis for it.

CHAIRMAN CARACAPPA:

Said it before, say it again, I think it's weak. Anyway, the environmental -- the Education bill for the light, you're saying, Charlie, has enough funding in it to do the light and the improvements?

COMMISSIONER BARTHA:

I don't believe that bill has any money in it. But if -- I think, we are proceeding with this. We have money --

CHAIRMAN CARACAPPA:

Yes. I received your memo.

COMMISSIONER BARTHA:

We're proceeding with the design. It's not -- it's a problem with respect to the scheduling if the sponsor wants to amend this resolution and get passed at a subsequent meeting, because we are proceeding, we expect to have this --

LEG. BISHOP:

Motion to table.

LEG. CRECCA:

Second.

CHAIRMAN CARACAPPA:

There is a motion to table and a second, it takes precedence over everything.

LEG. FOLEY:

Just on the motion.

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CHAIRMAN CARACAPPA:

Legislator Foley.

LEG. FOLEY:

I'd like to report it out of committee, but I first wanted to ask the Commissioner. Commissioner, you say you're progressing work on this, can you tell us what you mean by that.

COMMISSIONER BARTHA:

We're performing the design to install a traffic signal.

LEG. FOLEY:

And when -- when would that be completed?

COMMISSIONER BARTHA:

We're planning to have it installed before the fall semester.

LEG. FOLEY:

All right. And that entails not just the traffic signal, but also better lighting at --

COMMISSIONER BARTHA:

Correct.

LEG. FOLEY:

-- the extended intersection?

COMMISSIONER BARTHA:

Correct.

LEG. FOLEY:

Okay. And it's your further belief that if this resolution was amended to 100,00 that the job could get done?

COMMISSIONER BARTHA:

Correct.

LEG. FOLEY:

All right. You need this money in order to do the job, correct? You need an appropriating resolution to do the job, correct?

COMMISSIONER BARTHA:

We would do the job one way or the other, but what would happen is another job would not get done. We would like to see --

LEG. FOLEY:

If you do it in house, you still would need an appropriating resolution from us, correct?

COMMISSIONER BARTHA:

Correct.

LEG. FOLEY:

All right. So we have an appropriating resolution before the right committee, which is Public Works. I would hope that we can move this out. I -- I just had wished -- this has been originally laid on the

table last month. If we had -- and I don't mean this so much as a criticism, but just to point -- if we had this information last week, we could have amended this bill, then it could have been live for next Tuesday. But now -- now we're going to have to wait another three weeks unless we get CN.

LEG. CARPENTER:

Can I make a suggestion, that we discharge without recommendation so it's get to the floor, so that on Tuesday we can alert Legislator Guldi rather than trying to contact him, you know --

LEG. BISHOP:

Fine.

LEG. CARPENTER:

And then we can --

CHAIRMAN CARACAPPA:

Okay. Another compromise is struck. Motion to discharge without recommendation by Legislator Carpenter, seconded by Legislator Foley.

LEG. FOLEY:

Just on that motion. Why don't we make a motion to approve as opposed to without recommendation, because we are recommending that something be done at this intersection because of the death that had occurred there. You know what I'm saying?

LEG. CARPENTER:

I don't have a problem with that. We're approving it with the understanding that --

LEG. FOLEY:

I think your words are important, because we as a committee do -- do want to recommend this -- the placement of this light.

LEG. CRECCA:

We didn't have that before us -- I mean, that issue. I mean, we're hearing about safety improvements right now, but --

LEG. FOLEY:

We've done -- we've done this in other resolutions, Legislator Crecca.

LEG. CARPENTER:

Well, as long as there's an understanding that we will address this on the floor.

LEG. FOLEY:

The reason being is that the hope -- the hope is that -- the hope is, Legislator Bishop to answer your frantic question, is that we can get the County Executive, I would hope, to do a CN on Tuesday, as opposed to waiting another three weeks. If we can't, then it will be tabled on the floor, and we'll have the resolution ready for the next go-around.

CHAIRMAN CARACAPPA:

Hold on everybody. With all due respect, we have a process.

LEG. CRECCA:

I agree.

CHAIRMAN CARACAPPA:

We try to deviate from the process all the time, but we should stay within the perimeters of the process. And Legislator Bishop is right. If a bill is flawed, though it's just the funding here that's flawed, the intent is absolutely -- absolutely agreed upon. We're on the record, we all want this up and down, but let's try and stay within the process of this body. Motion to discharge without recommendation, and put on the record, as Chair, that we all support this program and this project, and we're going to make sure that it's done expeditiously through the Department of Public Works. And we'll work on adjusting the resolution on the floor of the Legislature and seeing its passages through. Okay. Legislator Foley, is that fine?

LEG. FOLEY:

It's a compromise, but it's one that the sponsors will live with.

CHAIRMAN CARACAPPA:

Okay. All in favor? Opposed? Abstain? Motion DISCHARGE WITHOUT RECOMMENDATION. (VOTE: 5-0-0-0)

IR 1331. Amending the 2002 Capital Budget and Program and appropriating funds in connection with the purchase of highway maintenance equipment. (COUNTY EXEC)

LEG. CARPENTER:

Motion.

LEG. FOLEY:

Second.

CHAIRMAN CARACAPPA:

Motion by Legislator Carpenter, seconded by Legislator Foley. Compressor jumped out on me when I was reading the resolution, \$20,000 for a compressor. A compressor used in the field no less, which means it's a -- it's a smaller one, not one used in, let's say in a mechanic shop for something fixed in place. \$20,000 for an air compressor. So it's -- it's for three of them at \$60,000. It's 60,000. So obviously, we're getting three of them. What kind of \$20,000 compressor can we lug around in the field? That -- I just needed to ask that question, because I've -- it caught my eye.

COMMISSIONER BARTHA:

The fact that it has to be brought in the field would mean that it's -- it has to be more powerful really than a compressor that's stationary. But it would be doing work such as breaking concrete, those kind of things. We would -- you know, this would be competitively bid, and I can get you more information in the mean time on the type of compressor that we're looking at.

CHAIRMAN CARACAPPA:

All right. All right. Please do that, because again, I'm just going by the definition of the tool provided by you used as a power supply for tools used in the field. \$20,000 for -- for that kind of power

supply seems rather large, energy efficient, okay. Motion by legislator -- we have a motion and a second. All in favor? Opposed? Abstain? Motion is carried. APPROVED (VOTE: 5-0-0-0)

IR 1332. Amending 2002 Capital Budget and Program appropriating funds in connection with the reconstruction of Culverts. (COUNTY EXEC)

CHAIRMAN CARACAPPA:

Motion by myself, seconded by Legislator Foley. All in favor? Opposed? Abstain? Motion is APPROVED. (VOTE: 5-0-0-0)

IR 1333. Amending 2002 Capital Budget and Program appropriating funds in connection with rehabilitation of various bridges and embankments. (COUNTY EXEC)

LEG. FOLEY:
Motion.

CHAIRMAN CARACAPPA:
Motion by Legislator Foley, seconded by Legislator Carpenter. All in favor? Opposed? Abstain? APPROVED (VOTE: 5-0-0-0)

IR 1339. Amending 2002 Capital Budget and Program appropriating funds in connection with the purchase of sewer facility maintenance equipment. (COUNTY EXEC)

CHAIRMAN CARACAPPA:
Motion by Legislator Crecca, seconded by myself. All in favor? Opposed? Abstain? APPROVED (VOTE: 5-0-0-0)

IR 1349. Authorizing the Department of Public works to apply for institutional membership in the New York Water Environmental Association (NYWEA) (COUNTY EXEC)

CHAIRMAN CARACAPPA:
Motion by Legislator Foley, seconded by myself. Why are we paying a \$1000 plus to join as a member for this?

COMMISSIONER BARTHA:
We've been encouraged in the past by the Legislature to belong to these committees, these associations. A number of us in the department belong as individuals, but this will allow us to receive a number of training for employees as well as information that's useful with respect to what's going on in the rest of country on sewage facilities.

CHAIRMAN CARACAPPA:
Now, this would cover the entire department as a member or singular individual from the department as a member?

COMMISSIONER BARTHA:
It covers a number of employees. I believe it would be -- 14 employees would be covered by this.

CHAIRMAN CARACAPPA:
Okay. We have a motion and a second. All in favor? Opposed? It's APPROVED. (VOTE: 5-0-0-0)

IR 1400. Extending engineering certificate requirement in connection with County RFP process to land surveyors. (HALEY)

LEG. CRECCA:

Counsel, can you explain this, because I have a bill in, you know, regarding this land acquisition, and I don't understand.

COMMISSIONER BARTHA:

If I could interrupt. I think there is a typo with respect to the heading.

MR. SABATINO:

Well, there's no mistake in the resolution. I think maybe in the word. 1400 is Legislator Haley trying to amend legislation he had done.

CHAIRMAN CARACAPPA:

It's completely wrong the title. It's extending engineering certificate requirement in connection with County RFP process to land surveyors.

MR. SABATINO:

That's the way the resolution reads.

CHAIRMAN CARACAPPA:

Yeah, but on the agenda it's completely --

MR. SABATINO:

Well, that's the agenda. The resolution itself, the title is correct. Legislator Haley had proposed and the Legislature adopted legislation in the Year 2000 which basically requires certificates of authorization for anybody doing engineering work in the County of Suffolk as a precondition to getting contracts awarded whether by competitive bidding or an RFP process. The proposed amendment here would be to add lands surveying practices to all the other engineering categories that were covered by the original legislation, so that you don't have the requisite certification from the state, you would not be able to get a contract with the County.

LEG. CARPENTER:

Motion.

CHAIRMAN CARACAPPA:

Motion by Legislator Carpenter, seconded by myself. All in favor? Opposed? Abstain? APPROVED (VOTE: 5-0-0-0)

And please let the record reflect the change in the title of that resolution.

IR 1459. Amending 2002 Capital Budget and Program appropriating funds in connection with installation of guide rail and safety upgrading at various locations in Suffolk County. (COUNTY EXEC)

CHAIRMAN CARACAPPA:

Motion by myself, seconded by Legislator Foley. Commissioner, in the backup -- there was no backup -- where are the locations?

COMMISSIONER BARTHA:

The guide rail work, it's -- some locations are on Montauk Highway as well as County Road 83 and Nicolls Road.

CHAIRMAN CARACAPPA:

That's all I needed to hear. Motion and a second. All in favor?

Opposed? APPROVED (VOTE: 5-0-0-0)

IR 1460. Appropriating funds in connection with the reconstruction of CR2, Straight Path, Town of Babylon. (COUNTY EXEC)

CHAIRMAN CARACAPPA:

Motion by Legislator Bishop, seconded by Legislator Foley. All in favor? Opposed? Abstain? Motion is carried.

APPROVED (VOTE: 5-0-0-0)

IR 1461. Appropriating funds in connection with a corridor study/improvements on CR7, Wicks Road, Town of Islip. (COUNTY EXEC)

CHAIRMAN CARACAPPA:

Motion by Legislator Carpenter, seconded by Legislator Crecca. All in favor? Opposed? Abstain? APPROVED. (VOTE: 5-0-0-0)

IR 1464. Transferring escrow account revenues and transferring assessment stabilization reserve funds to the Capital fund, amending the 2002 Operating Budget, amending the 2002 Capital Budget and Program, and appropriating funds for the improvement and rehabilitation of the existing facilities in Suffolk County Sewer District No. 6 - Kings Park. (COUNTY EXEC)

LEG. CRECCA:

Motion.

CHAIRMAN CARACAPPA:

Motion by Legislator Crecca, seconded by Legislator Foley. All in favor? Opposed? APPROVED (VOTE: 5-0-0-0)

IR 1483. Authorizing execution of an agreement by the Administrative Head of Suffolk County Sewer District No. 3 - Southwest with the developer of Huntington Townhouse. (COUNTY EXEC)

CHAIRMAN CARACAPPA:

Finally, 1483. Everything's -- the capacity there. This is for the new hotel.

COMMISSIONER BARTHA:

For the hotel and the existing catering facility. The capacity is available in Southwest. They would correct through pump station and force main that was constructed by the Walt Whitman Mall to connect a number of years ago. They would pay us \$720,000 in a connection fee.

CHAIRMAN CARACAPPA:
In a new connection fee.

COMMISSIONER BARTHA:
Right.

CHAIRMAN CARACAPPA:
In usage fees.

COMMISSIONER BARTHA:
That's an upfront payment and then they would continue each year to pay just as if they were in the district plus 5% on top of it. So it's a significant amount of revenue for the sewer district.

LEG. CARPENTER:
When will we receive that payment?

CHAIRMAN CARACAPPA:
The question was when will we receive that payment.

COMMISSIONER BARTHA:
The 720 we receive when we execute the contract.

LEG. CARPENTER:
This one lump sum. We don't give them the easy payment plan, do we?

COMMISSIONER BARTHA:
I'm sorry, I can't hear you.

LEG. CRECCA:
Do we get it in one lump sum was the question.

COMMISSIONER BARTHA:
Yes.

CHAIRMAN CARACAPPA:
That -- that's just to cover our operational end of it, right?

LEG. BISHOP:
The lump sum, that's just to cover our costs?

COMMISSIONER BARTHA:
No. That's -- that's a connection fee that buys -- essentially, I view it as buying equity in the system, because they have not been --

LEG. BISHOP:
So where does that money go to?

COMMISSIONER BARTHA:
That goes into the escrow fund just as for the Southwest, just as the previous resolution, you appropriated funds that had accumulated been in the Kings Park escrow, we make improvements to Bergen Point that

are necessary, and from time to time we come to the Legislature for appropriations. This holds down the tax rate in the district by not having to need the Capital Program.

LEG. CARPENTER:

What happens if the amount of usage that is projected winds up being over? I understand they pay \$15 per gallon, correct?

COMMISSIONER BARTHA:

Per gallon.

LEG. CARPENTER:

And it's estimated that their requirements is 48,000 gallons. So if it's determined, is there a way of monitoring how much they actually are going to be using? And if it goes over in addition to charging them that additional \$15 per gallon over, would we then go back and look at the original fee that was charged them? Because it's based on 48,000 gallons. If it turns out they're using 60 gallons, do we go back and look at that?

COMMISSIONER BARTHA:

Yes. We would go back to them and tell them that they were exceeding the amount that was authorized, and look to see what was necessary to reduce that flow because these -- these flow estimate are based upon Health Department standards, which are typically high. But -- and we have had instances and we've gone back to developers and required them to either do some thing to reduce the amount of flow or return to the sewer agencies and the Legislature for approval of additional capacity.

LEG. CARPENTER:

And then they would be assessed a fee, I would presume, in addition to just the gallon fee.

COMMISSIONER BARTHA:

Yes.

LEG. CARPENTER:

Okay.

CHAIRMAN CARACAPPA:

Motion and a second. All in favor? Opposed? Abstain. Motion is carried. APPROVED (VOTE: 5-0-0-0)

Any other business to come before the Public Works Committee? We stand adjourned.

(*THE MEETING WAS ADJOURNED AT 1:00 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY